

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BRANCH BANKING AND TRUST  
COMPANY, a North Carolina banking  
corporation,

Plaintiff,

v.

D.M.S.I. L.L.C., a Nevada limited-liability  
company; YOEL INY; NOAM SCHWARTZ;  
Yoel Iny, Trustee of the Y&T Iny Family  
Trust; NST HOLDING, INC., Trustee of the  
NS 1998 Family Trust; and DOES 1 through  
10, inclusive,

Defendants.

Case No. 2:11-cv-01778-APG-VCF

**Order Denying Reconsideration and  
Denying Motion for Attorney Fees**

(Dkt. ##131, 133)

Defendants filed a motion (Dkt. #131) asking me to reconsider my September 26, 2014 order (Dkt. #128) granting Plaintiff's motion for summary judgment. "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *Henry v. Rizzolo*, No. 2:08-CV-00635-PMP, 2010 WL 3636278, at \*1 (D. Nev. Sept. 10, 2010) (internal citations and quotation marks omitted). Defendants have not met this burden. Therefore, reconsideration is not warranted.

In response to the defendants' motion, Plaintiff filed a motion seeking a sanction in the form of an award of its attorneys' fees incurred in connection with the motion. (Dkt. #133.) The actions of Defendants' counsel in filing the motion to reconsider do not rise to the level of sanctionable conduct under 28 U.S.C. §1927. Thus, sanctions are not warranted. Plaintiff may,

1 however, seek to recover its incurred fees and costs as part of a later motion for fees and costs  
2 incurred in connection with this lawsuit, should such a request be permitted by contract or statute.

3 IT IS THEREFORE ORDERED that Defendants' motion to reconsider (**Dkt. #131**) is  
4 **DENIED.**

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6 IT IS FURTHER ORDERED that Plaintiff's motion for attorneys' fees (**Dkt. #133**) is  
7 **DENIED.**

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9 DATED this 27<sup>th</sup> day of August, 2015.

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12 Andrew P. Gordon  
13 United States District Judge  
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